

### **Remarks**

Applicants have amended claims 94, 107, 110, 117, 137 and 140 as suggested by the Examiner.

Applicants have also amended independent claims 85, 101, 117 and 131 to clarify that the "local frame based data channel interface" is a "local area network frame based data channel interface" and that the "synchronous digital network" is a "wide area synchronous digital network". This makes it even more clear that the invention is concerned with flow control at the boundary of local and wide area networks.

Turning to the Examiner's claim rejections under 35 U.S.C. §103(a), Applicants make the following remarks.

Ramakrishnan (US Patent No. 6,167,029) discloses a system and method for integrated data flow control in high speed Ethernet networks. There is no teaching or suggestion of such Ethernet networks being connected over synchronous digital networks nor any teaching or suggestion of transmission of Ethernet data over any form of wide area network. Ramakrishnan is specifically limited to flow control within Ethernet local area networks. Partridge (US Patent No. 6,370,579) is concerned with systems and methods for striping packets over multiple parallel sublinks in either a local or wide area network which sublinks are aggregated together to form a higher data rate link. Partridge is not at all concerned with flow control nor with the transmission of local area network data (such as from an Ethernet network) over a wide area network (such as a synchronous digital network). As stated by the Examiner, Partridge does discuss SONET and SDH networks and states that such networks may be high-speed. However, this is really quite irrelevant.

The Examiner's argument appears to be that because Ramakrishnan describes its flow control technique as being particularly suitable for high-speed networks, and

because Partridge states that SDH and SONET networks are capable of high-speed, it would therefore be somehow obvious to combine the teachings of Ramakrishnan and Partridge thereby "implementing the flow control in SDH or SONET, to prevent network congestions" (see page 4 of the office action). Applicants cannot understand this reasoning.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggesting to make the claims combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicants' disclosure. In re Vaack, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

#### **No Motivation to Modify or Combine Teachings**

The Examiner has provided no evidence that one skilled in the art would be motivated to combine the teachings of Ramakrishnan and Partridge or modify Ramakrishnan in view of the cited teaching of Partridge. As stated above, Ramakrishnan is concerned with flow control in local area networks, specifically Ethernet networks, whereas Partridge is concerned with striping packets over multiple parallel communications links. The only thing that the references have in common is the use of the adjective "high-speed" to describe the communications networks in which their respective inventions may be used. This is not motivation to combine or modify in any sense of the word.

The Examiner is reminded that the Patent and Trademark Office bears the burden of establishing a *prima facie case* of obviousness and if the Examiner seriously intends to pursue this combination, he is kindly requested to provide evidence in

the prior art references themselves or in common general knowledge that one skilled in the art would combine the teachings of these references or modify Ramakrishnan in view of the teaching of Partridge.

### **Combination or Modification Does Not Teach Each and Every Limitation of the Claims**

Even if one skilled in art were motivated to combine the references or modify Ramakrishnan in view of the teaching of Partridge (which is denied) he or she would not arrive at the invention as presently claimed.

It is a feature of each of the independent claims that the data is either being received at a local area network frame based data channel interface and is for transmission over a wide area synchronous digital network, or conversely, that it has been received over a wide area synchronous digital network and is for transmission over a local area network frame based data channel interface. In other words, the flow control methods and apparatuses claimed are operable on data at the interface between a local and wide area network.

Ramakrishnan is concerned solely with flow control within a local area network, specifically a high-speed Ethernet network. It makes absolutely no mention of the possibility of data being transmitted to or from wide area synchronous digital networks and the different flow control issues that the present invention addresses in this context. The Examiner suggests that taking the teaching of Partridge that SONET and SDH networks are high-speed networks and the comment that the flow control system of Ramakrishnan is suited to high-speed networks might motivate one skilled in the art to apply the flow control techniques described in Ramakrishnan in a SONET or SDH network. However, even if one skilled in the art were motivated to do this (which is denied), he or she would still not arrive at the features of the present invention that the data is being received either at a local area network frame based data channel interface and is for transmission over a

wide area synchronous digital network, or that the data is being received over a wide area synchronous digital network and is for transmission over a local area network frame based data channel interface. In other words, one skilled in the art would still not arrive at a system in which flow control is operable on the data at the interface between a local and wide area network.

Again, the Examiner is reminded that the Patent and Trademark Office bears the burden of establishing a *prima facie* case of obviousness and the Examiner is required by law to show how the modification or combination of Ramakrishnan and Partridge teach or suggest all the claim limitations – in particular that the data is either being received at a local area network frame based data channel interface and is for transmission over a wide area synchronous digital network, or conversely, that it has been received over a wide area synchronous digital network and is for transmission over a local area network frame based data channel interface.

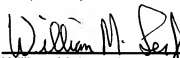
#### **No Reasonable Expectation of Success**

However, the process of attempting to combine the teachings of Ramakrishnan and Partridge as suggested by the Examiner, is in itself a *reduction ad absurdum*. One skilled in the art would know as a matter of common knowledge that synchronous digital networks such as SONET and SDH networks, in themselves, do not require flow control. Data is transmitted at fixed data rates – no more, no less. It is only in asynchronous networks such as Ethernet or IP networks, or in networks which comprise asynchronous network portions, that flow control may be necessary. Accordingly, applying flow control techniques to SONET or SDH networks would be illogical to one skilled in the art. Therefore, there can be no reasonable expectation of success in attempting to combine the teachings of Ramakrishnan and Partridge as suggested by the Examiner.

For the reasons above Applicants request favorable reconsideration of the present application and look forward to receiving a Notice of Allowance.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "William M. Lee, Jr.", written over a horizontal line.

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